

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:09cv368**

KRISTIN A. MESSINA,

Plaintiff,

vs.

**MICHAEL ASTRUE,
Commissioner of Social Security**

Defendant.

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ORDER

THIS MATTER is before the Court on the parties' cross Motions for Summary Judgment [Docs. 8 and 10] and the Magistrate Judge's Memorandum and Recommendation [Doc. 13] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the district court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider these pending motions in the above-captioned action and to submit to this Court a recommendation for the disposition of these motions.

On August 12, 2010, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 13] in this case containing proposed conclusions of

law in support of a recommendation regarding the motions [Docs. 8 & 10]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 13], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation that the Defendant's Motion for Summary Judgment be denied and that the Plaintiff's Motion for Summary Judgment be allowed.

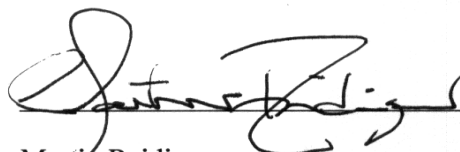
IT IS, THEREFORE, ORDERED that the Defendant's Motion for Summary Judgment [Doc. 10] is **DENIED**, and that the Plaintiff's Motion for Summary Judgment [Doc. 8] is hereby **ALLOWED**.

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the decision of the Commissioner under Sentence Four of 42 U.S.C. § 405(g), the decision of the Commissioner is **REVERSED**, and this case is hereby **REMANDED** to the Commissioner for further administrative action consistent herewith.

A judgment shall be entered simultaneously herewith.

IT IS SO ORDERED.

Signed: September 15, 2010


Martin Reidinger
United States District Judge

